



Billing Code 4333–15

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[Docket No. FWS–R5–ES–2016–0135; FXES11120500000–167–FF05E00000]

Proposed Oil & Gas Coalition Multi-State Habitat Conservation Plan for Ohio, Pennsylvania, and West Virginia

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of intent to prepare an environmental impact statement; notice of public scoping meetings; request for comments.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), announce our intent to prepare a draft environmental impact statement (EIS) for proposed issuance of an incidental take permit (ITP) under section 10(a)(1)(B) of the Endangered Species Act (ESA) for the draft Oil & Gas Coalition Multi-State Habitat Conservation Plan (O&G HCP). The O&G HCP is being developed to streamline environmental permitting and compliance with the ESA for nine companies in conjunction with their respective midstream and upstream oil and gas exploration, production, and maintenance activities in Ohio, Pennsylvania, and West Virginia over a 50-year period. We announce a public scoping period during which we invite input regarding development of the draft EIS, which will evaluate the impacts to the human environment associated with issuance of an ITP and implementation of the O&G HCP, and alternatives. We will hold public informational meetings and request comments during this public scoping period.

DATES: *Comment submission:* We will accept comments received or postmarked on or before [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE **FEDERAL REGISTER**]. Comments submitted electronically using the Federal eRulemaking Portal (see **ADDRESSES**) must be received by 11:59 p.m. Eastern Time on the closing date.

Public meetings: The Service will host five public information and scoping meetings, as well as an informational webinar. Information about the scoping meetings and webinar is provided below in **SUPPLEMENTARY INFORMATION** under **Scoping Meetings** and also on the Service's project webpage:

www.fws.gov/northeast/ecologicalservices/hcp/oghcp.html. Please note that the scoping meetings will be hosted by the Service in an open house format from 5:00 to 7:00 p.m. Eastern Time, with a presentation provided from 6:00 to 6:30 p.m. Eastern Time.

ADDRESSES: You may submit written comments by one of the following methods:

Electronically: Go to the Federal eRulemaking Portal Web site at:

<http://www.regulations.gov>. In the Search box, enter FWS–R5–ES–2016–0135, which is the docket number for this notice. Click on the appropriate link to locate this document and submit a comment.

By hard copy: Submit by U.S. mail or hand-delivery to Public Comments Processing, Attn: FWS–R5–ES–2016–0135, Division of Policy, Performance, and Management Programs; U.S. Fish and Wildlife Service; 5275 Leesburg Pike, ABHC–PPM; Falls Church, VA 22041–3803.

At the scoping meetings: You will have the opportunity to submit comments either electronically or in hard copy format at five public scoping meetings. The addresses for the meetings are set forth below in **SUPPLEMENTARY INFORMATION** under **Scoping Meetings**. Comment forms and a computer station will be available for use at the meeting venues.

We request that you send comments by only one of the methods described above. We will post all information received in the docket at <http://www.regulations.gov>. This generally means that we will post any personal information you provide us (see the **Public Comments** section below for more information).

FOR FURTHER INFORMATION CONTACT: Pamela R. Shellenberger, by mail at U.S. Fish and Wildlife Service, 110 Radnor Rd, Suite 101, State College, PA 16801, or by telephone at (814) 234-4090, extension 7459. If you use a telecommunications device for the deaf, please call the Federal Relay Service at (800) 877-8339.

SUPPLEMENTARY INFORMATION: The O&G HCP is being developed by a coalition of nine companies (collectively called “the companies”) that individually conduct upstream and/or midstream oil and gas activities within the three-State plan area. The coalition members are: Antero Resources Corporation; Ascent Resources, LLC; Chesapeake Energy Corporation; EnLink Midstream L.P.; EQT Corporation; MarkWest Energy Partners, L.P., MPLX L.P., and Marathon Petroleum Corporation (all part of same corporate enterprise); Rice Energy, Inc.; Southwestern Energy Company; and The Williams Companies, Inc. The companies, which will be co-permittees, intend to seek ITP coverage because their respective oil and gas exploration, production, and

maintenance activities have the potential to incidentally take species that are known to occur in the three-State plan area and that are protected by the Endangered Species Act of 1973, as amended (ESA; 16 U.S.C. 1531 *et seq.*). Therefore, the companies' ITP application will include a draft HCP that addresses these activities. The companies have indicated that they intend to request ITP coverage for five bat species: the endangered Indiana bat (*Myotis sodalis*), the threatened northern long-eared bat (*Myotis septentrionalis*), the little brown bat (*Myotis lucifugus*), the eastern small-footed bat (*Myotis leibii*), and the tri-colored bat (*Perimyotis subflavus*).

We publish this notice under the authority of the National Environmental Policy Act of 1969, as amended (NEPA; 42 U.S.C. 4231 *et seq.*), its implementing regulations in the Code of Federal Regulations at 40 CFR 1501.7, 1506.6, and 1508.22 and the Department of the Interior's NEPA implementing regulations at 43 CFR 46.235, and pursuant to section 10(c) of the ESA. We intend to prepare a draft EIS to evaluate the impacts to the human environment associated with the companies' anticipated permit application and draft O&G HCP and several alternatives. In advance of receiving the companies' ITP application, the Service is providing this notice to request information from other agencies, Tribes, and the public on the scope of the Service's review as well as issues to consider in the NEPA analysis. The primary purpose of the scoping process is to allow the public, Tribes, and other agencies to provide input to the Service for development of the draft EIS by identifying important issues and alternatives related to the Service's proposed action (issuance of an ITP based on the companies' anticipated application and draft O&G HCP).

Project Summary

The companies' draft HCP is being prepared to streamline environmental permitting and compliance with the ESA in conjunction with their respective midstream and upstream oil and gas exploration, production, and maintenance activities in Ohio, Pennsylvania, and West Virginia. The geographic extent of the companies' activities within the three-State O&G HCP plan area over the requested 50-year permit term will in part be informed by predictive modeling.

Midstream and upstream oil and gas exploration, production, and maintenance activities will potentially affect covered species (see **Covered Species**, below) in the plan area. A model of the proposed covered activities will be used to estimate potential impacts to the covered species by overlaying the predicted covered activity implementation (including the type and location of infrastructure build-out) on the covered species' habitats. The draft HCP will include measures to ensure that impacts from incidental take of covered species and impacts to those species' habitats associated with the covered activities (see **Covered Activities**, below) will be minimized and mitigated to the maximum extent practicable.

Background

Section 9 of the ESA prohibits "take" of fish and wildlife species listed as endangered under section 4 (16 U.S.C. 1538, 1533, respectively). The ESA implementing regulations extend, under certain circumstances, the prohibition of take to threatened species (50 CFR 17.31). Under section 3 of the ESA, the term "take" means to "harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or attempt to engage in

any such conduct” (16 U.S.C. 1532 (19)). The term “harm” is defined by regulation as an act which actually kills or injures wildlife. Such act may include significant habitat modification or degradation where it actually kills or injures wildlife by significantly impairing essential behavioral patterns, including breeding, feeding, or sheltering (50 CFR 17.3). The term “harass” is defined in the regulations as an intentional or negligent act or omission which creates the likelihood of injury to wildlife by annoying it to such an extent as to significantly disrupt normal behavioral patterns which include, but are not limited to, breeding, feeding, or sheltering (50 CFR 17.3).

Pursuant to section 10(a)(1)(B) of the ESA, the Secretary of the Interior may issue permits to authorize “incidental take” of listed species. “Incidental take” is defined by the ESA as take that is incidental to, and not the purpose of, carrying out an otherwise lawful activity. Service regulations governing permits for endangered species and threatened species, respectively, appear at 50 CFR 17.22 and 17.32. Section 10(a)(2)(B) of the ESA contains provisions for issuing an ITP to a non-Federal entity for the take of endangered and threatened species, provided the following criteria are met:

- The taking will be incidental;
- The applicant will, to the maximum extent practicable, minimize and mitigate the impact of such taking;
- The applicant will develop an HCP and ensure that adequate funding for the plan will be provided;

- The taking will not appreciably reduce the likelihood of survival and recovery of the species in the wild; and
- The applicant will carry out any other measures that the Secretary may require as being necessary or appropriate for the purposes of the HCP.

Plan Area

The companies' oil and gas development activities will be conducted within a three-State plan area of Ohio, Pennsylvania, and West Virginia. This plan area was developed to ensure that the natural resources that might be affected by covered activities can be adequately assessed at a regional scale and that sufficient mitigation opportunities are available. The companies intend that any resulting permit will cover their activities wherever they may occur within the three-State area, though the draft plan may identify a subset of that area where certain activities may or may not occur.

Covered Activities

The companies intend to develop an HCP to address their oil and gas exploration, production, and maintenance activities that will occur in the plan area over a proposed 50-year ITP term. Their specific midstream and upstream oil and gas activities that are proposed for coverage in the HCP include the following:

- Upstream (Well) Development Activities:
 - Development activities, including those associated with access roads, staging areas, and seismic operations, as well as geophysical exploration,

which includes surveying/staking, land/tree clearing, explosives use, boring, and vehicle traffic.

- Well field development activities, including those associated with production wells, well pads, drilling rigs, pump/well heads, reserve pits, storage tanks, fuel tanks, water tanks, electric equipment, drilling pipe storage, water wells, waterlines, surface water intakes, disposal wells, water impoundments, borrow pits, reserve pits, electric distribution lines, and communication towers.
- Construction activities associated with well pads, ancillary features, and onsite components, including but not limited to surveying/staking; land/tree clearing; grading; stormwater and erosion and sediment control; wetland, stream, and sensitive area mitigation/protection; trenching/boring; surface water pumping; spoil/debris placement; vegetation pile placement, vehicle traffic, drilling/well pad development and completion activities; and office, control, utility, storage, and maintenance structure construction or placement incidental to specific projects.
- Production and operations activities, including those related to access roads, production, gas flaring, vehicle traffic, post-construction stormwater management, maintenance of well pads and ancillary features and components (supporting infrastructure installation, repair and replacement, equipment upgrades, inspections and repairs, workovers and recompletions,

minor amounts of soil disturbance, vegetation maintenance, road maintenance, etc.).

- Decommissioning and reclamation activities, including those associated with vehicle traffic, land/tree clearing, land excavation/backfilling, vegetation restoration, and well plugging.
- Midstream (Pipeline) Development Activities
 - Construction of gathering, transmission, and distribution pipelines and associated activities, including but not limited to access road construction, staging area establishment, pipe storage/laydown area establishment, stream and water crossing construction, road boring, surveying/staking, land/tree clearing, stormwater and erosion and sediment control, grading, trenching/boring, stockpiling, pipeline assembly, trench backfilling, vehicle traffic, revegetation, and surface impact reclamation.
 - Construction of surface features, including but not limited to access roads, staging areas, and storage yards; booster, compressor, and pump stations and related facilities; meter stations; mainline valves; pig launcher/receiver facilities; regular facilities; facilities to process, refine, stabilize, and store natural gas and/or other hydrocarbons; communication towers; electric distribution lines; electric substations; capacitor stations; transformer stations; office/control/utility/storage/maintenance structures incidental to specific projects; parking areas; cathodic protection facilities; and storage tanks.

- Operation and maintenance of pipeline and surface facilities and related activities, including but not limited to vehicle traffic, equipment upgrades, inspections and repairs/replacements, leak detection, pigging, painting, minor amounts of soil disturbance, vegetation maintenance to preserve the right of way, road maintenance, and odor reduction.
- Installation of new culverts/ditches, gas flaring, blow downs, and hydrostatic testing and discharge.
- Decommissioning and reclamation of pipeline and surface facilities and related activities, including but not limited to vehicle traffic, land excavation/backfilling, and vegetative restoration.

Covered Species

The companies intend to seek incidental take coverage for five species of bats: the Indiana bat, northern long-eared bat, little brown bat, eastern small-footed bat, and tri-colored bat. The Indiana bat is listed as an endangered species, and the northern long-eared bat is listed as threatened under the ESA. A rule issued under section 4(d) of the ESA for northern long-eared bats (81 FR 1900, January 14, 2016) prohibits certain actions that do not include the incidental take of northern long-eared bats resulting from most otherwise lawful activities, including take due to the removal of habitat and disturbance from human activities, and intentional take caused by human activities in most areas. The companies anticipate that they may include northern long-eared bats in the O&G HCP, so that the species could be covered under the ITP should the section 4(d) rule be rescinded or amended or if the species were to be uplisted to endangered under

the ESA during the permit term. The little brown bat, eastern small-footed bat, and tri-colored bat are included as covered species under the HCP so that the species are addressed in the event that any or all were to be listed under the ESA within the term of the proposed permit.

Permit Term

The companies anticipate requesting a 50-year ITP term. Their reasoning for their request includes the following: oil and gas infrastructure has a long production and economic life; the extensive oil and gas resources in the plan area are expected to be developed over the long term; preliminary information indicates that ongoing operations and maintenance and decommissioning may result in incidental take after facility construction; and facility construction schedules are responsive to dynamic market pressures. The Service will determine the permit term consistent with applicable legal requirements.

Environmental Impact Statement

The NEPA (42 U.S.C. 4321 *et seq.*) requires that Federal agencies conduct an environmental analysis of their proposed actions to determine if the actions may significantly affect the human environment. Based on 40 CFR 1508.27 and 1508.8, we have determined that the proposed action (i.e., issuance of a section 10(a)(1)(B) permit (ITP) to the companies for implementation of the proposed O&G HCP) may have significant effects on the human environment. Therefore, before deciding whether to issue an ITP to the companies, the Service intends to prepare an EIS to analyze the impacts associated with that action and alternatives to it. We will first develop a draft

EIS, which will be subject to public review, before finalizing the EIS and making a permit decision.

The draft EIS will consider the impacts of the proposed action on the human environment. The draft EIS will also include analysis of a reasonable range of alternatives to the proposed action. Alternatives to be analyzed in the draft EIS may include, but are not limited to, measures such as: variations in the permit term or permit structure; the quantity of take permitted; the amount, location, and/or type of conservation, monitoring, or mitigation provided in the O&G HCP; the scope of covered activities; or a combination of these factors. Additionally, a no-action alternative (i.e., no permit issuance) will be evaluated in the draft EIS.

The draft EIS will identify and describe direct, indirect, and cumulative impacts on the human environment, which may include biological resources, land use, air quality, water quality, water resources, socioeconomics, climate, and other environmental resources that could occur with the implementation of the proposed action and alternatives. Following scoping for the draft EIS, and after receipt of the companies' permit application, including the proposed O&G HCP, the Service will publish a notice of availability, which will request comments on the application and on the Service's draft EIS.

Public Comments

We request data, comments, information, and suggestions from the public, other concerned governmental agencies, the scientific community, Tribes, industry, and any other interested party regarding the scope of our NEPA analysis, and impacts to the human

environment resulting from the proposed action and alternatives. We will consider these comments when developing the draft EIS. We particularly seek comments on the following:

- (1) Aspects of the human environment that warrant examination (e.g., biological resources, land use, air quality, water quality, water resources, socioeconomics, climate, and other environmental resources, etc.) and any baseline information that could inform the analyses.
- (2) Information concerning the range, distribution, population size, and population trends concerning the covered species in the plan area.
- (3) Additional biological information concerning the covered species or other federally listed species that occur in the plan area.
- (4) Direct, indirect, and/or cumulative impacts that implementation of the proposed action (i.e., covered activities) will have on the covered species or other federally listed species.
- (5) Information about measures that can be implemented to avoid, minimize, and mitigate impacts to the covered species.
- (6) Other possible alternatives to the proposed action that the Service should consider.
- (7) Whether there are connected, similar, or reasonably foreseeable cumulative actions (i.e., current or planned activities) and their potential impacts on covered species or other federally listed species in the plan area.

(8) The presence of archaeological sites, buildings and structures, historic events, sacred and traditional areas, and other historic preservation concerns within the plan area that are required to be considered in project planning by the National Historic Preservation Act.

(9) Any other environmental issues that should be considered with regard to the proposed HCP and potential permit issuance.

You may submit your comments and materials by one of the methods listed in

ADDRESSES.

The Service will post all public comments and information received electronically or via hardcopy in the docket at: <http://regulations.gov>. All comments received, including names and addresses, will become part of the administrative record and will be available to the public. Before including your address, phone number, electronic mail address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—will be publicly available. If you submit a hardcopy comment that includes personal identifying information, you may request at the top of your document that we withhold this information from public review. However, we cannot guarantee that we will be able to do so.

Scoping Meetings

The purpose of the scoping meetings will be to provide the public with information regarding the anticipated application, draft HCP, and the Service's permitting process, and its associated environmental review. The Service will provide information on the scope of

issues and alternatives that may be initially considered. The companies' HCP contractor will also be available to answer questions about the draft HCP under development. Written comments will be accepted at the meeting. Comments can also be submitted by methods listed in **ADDRESSES**. Once the draft EIS and draft HCP are complete and made available for review, there will be additional opportunity for public comment on the content of these documents through an additional public comment period.

The scoping meetings will be held from 5:00 to 7:00 p.m. Eastern Time at the following locations on the following dates:

1. Chartiers Township Community Center (Banquet Room; 2013 Community Center Drive, Houston, PA 15342) on Monday, December 12, 2016.
2. Southgate Hotel (Banquet Rooms 1 and 2; 2248 Southgate Parkway, Cambridge, OH 43725) on Tuesday, December 13, 2016.
3. Beni Kedem Temple (Ballroom; 100 Quarrier Street, Charleston, WV 25301) on Wednesday, December 14, 2016.
4. Village Square Conference Center (Ballroom A; Rt. 19 South/1489 Milford Street, Clarksburg, WV 26301) on Thursday, December 15, 2016.
5. Genetti Hotel (Washington Room; 200 West Fourth Street, Williamsport, PA 17701) on Friday, December 16, 2016.

The webinar will be held on Tuesday, December 20, 2016, at 6:00 p.m. Eastern Time. Registration and log-in information for the webinar is available on the Service's project webpage:

www.fws.gov/northeast/ecologicalservices/hcp/oghcp.html

Persons needing reasonable accommodations to attend and participate in the public meetings should contact Pam Shellenberger at 814-234-4090, extension 7459, as soon as possible. To allow sufficient time to process requests, please call at least 1 week before the public meetings. Information regarding this proposed action is available in alternative formats upon request.

Dated: November 15, 2016.

Paul Phifer,

Assistant Regional Director,

Ecological Services, Northeast Region.

[FR Doc. 2016-28336 Filed: 11/23/2016 8:45 am; Publication Date: 11/25/2016]